



Arizona Peace Officer Standards and Training Board

2643 East University Drive Phoenix, Arizona 85034-6914 Phone (602) 223-2514 Fax (602) 244-0477

MINUTES OF THE AUGUST 19, 2020 MEETING OF THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD PHOENIX, ARIZONA

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on August 19, 2020, at the Arizona Peace Officer Standards and Training Board, located at 2643 E. University Drive, Phoenix, AZ.

Members Present (in person):

Sheriff Scott Mascher, Yavapai County Sheriff's Office, Chairman
Captain Don Bischoff, Jail Commander, Mohave County Sheriff's Office
Chief Alan Rodbell, Scottsdale Police Department

Members Present (via online video/telephone conferencing):

Sheriff Mark Dannels, Cochise County Sheriff's Office
Assistant Attorney General John Johnson, representing Attorney General Mark Brnovich
Ms. Jamie Kelly, Public Member
Mr. Andrew LeFevre, Faculty Member, Grand Canyon University
Officer Matthew Medina, Prescott Police Department
Director David Shinn, AZ Department of Corrections
Deputy Director Ken Hunter, representing Colonel Heston Silbert, AZ Department of Public Safety

Members Absent:

Chief Tom Kelly, Apache Junction Police Department
Deputy Christopher Pittmann, Maricopa County Sheriff's Office
Ms. Leesa B. Weisz, Public Member

Staff in Attendance (in person):

Matt Giordano, Executive Director
Ben Henry, Deputy Director
Ron Bayne, Compliance Specialist
Dan Ciernia, Digital Media Supervisor
Amanda Faust, Program Administrator
Steve Jacobs, Compliance Specialist
Mike Orose, Program Administrator
Sandy Sierra, Executive Assistant
Aaron Thomas, Compliance Specialist
David Toporek, Compliance Specialist
Dale Wyman, Digital Media Specialist

Staff in Attendance (via online video conferencing):

Arlene Heckel, Compliance Specialist

Assistant Attorneys General:

Mark Brachtl (in person)

Jennifer LaRoque (in person)

Anne Froedje (via online video conferencing)

A. Call to Order

Chairman Mascher called the meeting to order at 10:02 a.m. and asked Captain Bischoff to lead everyone in reciting the Pledge of Allegiance.

B. Introductions, Presentations and Announcements

Matt Giordano, Executive Director

- 10 Board members are present today, three are here in person and seven are participating via telephone/video conferencing. Deputy Christopher Pittmann, Ms. Leesa Weisz and Chief Tom Kelly are absent.
- Assistant Attorney General Anne Froedje will provide legal advice to the Board on the first three final action cases – Keanu Curley 18-101; Clinton D. Swick 19-231 and Andrew L. Bates 19-182.
- John Johnson from the AZ Attorney General’s Office is the new representative on the Board for Attorney General Mark Brnovich.
- Agenda item L, which is the petition from the Sedona Police Department, will be removed from the agenda.

C. Executive Director’s Report

Matt Giordano, Executive Director

- We have not seen a decrease in CJEF funding; in the past two months, funding has met or exceeded our expectations. We have finalized the FY22 budget request and we will once again ask for appropriated funding. Appropriated funding is what we use for academy reimbursements.
- We recently added three new staff members and a fourth will be hired soon. Compliance Specialist Aaron Thomas is a retired commander from the Phoenix Police Department. Compliance Specialist Ron Bayne is a retired commander from the Scottsdale Police Department. Both Aaron and Ron will be assigned to the Training Unit. Jennifer LaRoque is our new Assistant Attorney General who will be handling most Administrative Law Judge hearings. She is a retired commander from the Phoenix Police Department. Compliance Specialist Mike Giammarino will be onboard after Labor Day and will be handling public records requests, audits and also facility matters. We are very excited to have all of them onboard, they bring a wealth of information and experience.
- Computer Specialist Hop Bui retired at the end of July. We did some internal staff movements and Compliance Specialist Cindy Sawyer will be transferring to the IT Unit to provide assistance with the business practices of what we do regarding technology.
- Mike Orose is the new interim Compliance Manager. Mike was a Compliance Specialist and with his experience, it will allow for a smooth transition.

- The new Personal History (PH) Form will soon be available online and AZPOST will be the keeper of record for this form. With this new form, an individual will be given a specific sign-on to access the form on our portal. Once they complete the form, the agency looking to hire the individual can go into our portal and download that PH Form. Our system will track any changes and inconsistencies. If the individual changes anything on the form, the system will track those changes, they will not be able to change anything without us knowing about it. We did a soft launch with Glendale PD and Scottsdale PD to demo the new process. Hopefully in the next couple of months, we will be going live statewide and every PH Form will be done through our portal. We are leveraging technology to make it more efficient and hopefully we can reduce those cases down the road where someone has different information on multiple PH Forms.
- All fourteen statewide academies are now administering the Comprehensive Final Exam (CFE) online and we have discontinued using the scantron form. This new online process will also be used for waiver testing of out of state laterals and individuals whose AZ peace officer certification has lapsed. The Colorado City Marshal's Office will be one of the first agencies to benefit from this new process. They have four lateral candidates who will take the test remotely and will not have to drive to AZPOST and stay overnight at a hotel in order to complete this test.
- The Job Task Analysis, which updates the Basic Training Curriculum and determines which tasks are essential for an entry level officer, was completed in 2018. We are working with the Subject Matter Experts (SMEs) and working on updates to the lesson plans. Our goal is to have all lesson plans reviewed and updated by the end of this year. The Training Unit is working hard and doing a great job to ensure we get this completed.
- We hosted a Defensive Tactics (DT) Symposium last week at the Maricopa County Sheriff's Office Academy. We brought all the statewide DT SMEs together and they did curriculum review and presentations. They also provided suggestions on changes they feel should be made to the basic academy curriculum. Currently the curriculum is 40 hours but we are looking at changing it to 80 hours.
- Community and Police Engagement is another curriculum update we are working on. For the first time in AZPOST history, we reached out to the community and are bringing in community members to meet with our representatives from around the state to sit down and discuss what the curriculum that we teach to our recruits in the basic academy should look like. We feel it is very important to hear the voice of the community.
- The rule making package was submitted to the Governor's Regulatory Review Council (GRRC) for their review; approval of our rules will be on GRRC's October meeting agenda. If the rules are approved, the non-qualification items will go into effect in December of this year. The qualification items (drug use) will go into effect in April 2021.
- We began a Use of Force project on August 1. We starting a Use of Force tracking program to give us an idea of how many sustained use of force violations an agency has. We asked agencies to provide us all their sustained violations of their use of force policies. We will do a six month pilot program to get a picture of what this will entail and then will look to make some changes in mandatory reporting to AZPOST in calendar year 21. By next month, we should have some data to present and will place this on the agenda for further discussion.
- In the Training Section of our website, we have two subsections for Distance Learning. The Distance Learning Vendor Approval Forms can be found here, as well as those vendors

that have been approved as Distance Learning vendors. In-person attendance for training is very difficult right now due to Covid-19. We want to make sure agencies are not caught short at the end of the year trying to get their 8 hours of continuing education credit. We have almost 200 classes that have been approved for continuing education credit. All this information is on our website.

- The Advanced Leadership, FTO and Basic Supervision Programs are being redone. The Training Unit will update and facilitate all three classes.

Chief Rodbell inquired whether the new marijuana referendum, if passed, would cause us to revisit the recent rule changes regarding marijuana. He wants to ensure we are not in conflict with the referendum, if it passes. Assistant Attorney General Brachtl stated the issue regarding marijuana involves federal law. It requires that non-marijuana users can possess firearms but marijuana users, particularly those with a marijuana user card, cannot possess firearms. There is a federal overlay that is the issue here.

Chairman Mascher inquired whether the Use of Force pilot program would also include Brady issues, how would these tie in? Executive Director Giordano stated the only thing agencies are required to report to us is separation of employment. If an individual is terminated and the termination form is marked for misconduct, we become aware of the situation. Another individual could do the same act in another jurisdiction, they are not terminated, so there currently is no requirement for the agency to report that to us. What we are looking to do is create consistency, we need to be looking at cases consistently. I am looking at the sustained Use of Force pilot program as a stepping stone to create that consistency. A reporter asked me if all Brady issues should be reported to the Board, I believe that is something for future discussion if maybe we should go down that road as well.

Mr. LeFevre stated reporting use of force is not mandated by our rules, but this may be something that may be added legislatively. Executive Director Giordano stated he realizes it would have to be legislatively changed in order to mandate this reporting. In the pilot program, he asked twenty agencies to voluntarily provide this information and got overwhelming responses of support and many agreed to participate.

D. Consent Agenda

Mr. LeFevre made a motion to accept the Consent Agenda. The motion was seconded by Chief Rodbell and passed unanimously. Executive Director Giordano informed the Board that he reached out to the San Carlos Tribal Police Department reference the five officers who are deficient in their annual training. He did not receive a response. AZPOST will reach out to the agency head and make every effort to have training deficiencies taken care of. Only the names of those officers that are still deficient, after these attempts have been made, will be presented to the Board for restriction.

The following items were approved:

1. Minutes of the Board meeting held on June 17, 2020.

2. Certification Waivers:

Timothy W. Lyons	Glendale Police Department
Gordon R. Downing	Pima County Sheriff’s Department
Jason N. Wright	Pima County Sheriff’s Department
Keegan P. Smith	Gilbert Police Department
Steven D. Ganis	Yavapai-Apache Police Department
Joseph R. Hyer	AZ Department of Public Safety
Jessica L. Ashton	Buckeye Police Department
Leonard R. Ledbetter	Goodyear Police Department
Brandon G. Gomez	Hayden Police Department
Patrick K. Kaminska	Peoria Police Department
Samuel J. Weimer	Show Low Police Department
Daniel F. Francis	Cottonwood Police Department
Jonathan T. Humphreys	Flagstaff Police Department
Michael J. Donahue	Lake Havasu City Police Department
Ronald J. Kirchner	Lake Havasu City Police Department
Timothy M. Miller	Maricopa Police Department
Keith B. Lewis	Mohave County Sheriff’s Office
Nicholas A. Gallegos	Peoria Police Department
Brian P. Stehli	Peoria Police Department
Melissa A. Ward	White Mountain Apache Police Department

3. Consent Agreements for Voluntary Relinquishment/Denial of Peace Officer Certification. The following individuals, without admitting to any misconduct, requests the Board accept their request to permanently relinquish their Arizona peace officer certification:

Gerald D. Geier	19-246	Goodyear Police Department
Eric D. Heckel	20-068	Mesa Police Department
Michael L. Simmons	20-065	Hualapai Nation Tribal PD

4. Training Audit Deficiencies:

Manuel Goode	San Carlos Tribal Police Department
Leonard McIntosh	San Carlos Tribal Police Department
Dustin Philpot	San Carlos Tribal Police Department
Jonathan Savage	San Carlos Tribal Police Department
Michael Yaeger	San Carlos Tribal Police Department

E. Review, Discussion and Possible Action on an AZ Corporation Commission Petition for a Restricted Peace Officer Certification for Applicant Margaret “Meg” Hinchey

Assistant Attorney General Mark Brachtl addressed the Board regarding the AZ Corporation Commission petition for a restricted peace officer certification for Applicant Margaret “Meg” Hinchey. Applicant Hinchey has successfully passed the waiver process, except for the POPAT test. Chief Investigator Gary Clapper, AZ Corporation Commission, addressed the Board to request that the petition be granted.

Chief Rodbell made a motion that based upon the information submitted by the Securities Division of the AZ Corporation Commission, and pursuant to Rule 13-4-103(G), the Board grant a restricted peace officer certification to Applicant Margaret “Meg” Hinchey. The motion was seconded by Captain Bischoff and passed unanimously.

F. Review, Discussion and Possible Action on an AZ Corporation Commission Petition for a Restricted Peace Officer Certification for Applicant Bruce Jones

Assistant Attorney General Mark Brachtl addressed the Board regarding the AZ Corporation Commission petition for a restricted peace officer certification for Applicant Bruce Jones. Applicant Jones has successfully passed the waiver process, except for the POPAT test. Chief Investigator Gary Clapper, AZ Corporation Commission, addressed the Board to request that the petition be granted.

Chief Rodbell made a motion that based upon the information submitted by the Securities Division of the AZ Corporation Commission, and pursuant to Rule 13-4-103(G), the Board grant a restricted peace officer certification to Applicant Bruce Jones. The motion was seconded by Captain Bischoff and passed unanimously.

G. Review, Discussion and Possible Action on a Salt River Pima-Maricopa Indian Community Police Department Petition for Waiver pursuant to A.A.C. R13-4-103(G) for Applicant Jose Ramirez

Assistant Attorney General Mark Brachtl addressed the Board regarding the Salt River Pima-Maricopa Indian Community Police Department petition for waiver pursuant to A.A.C. R13-4-103(G) for Applicant Jose Ramirez. Applicant Ramirez consumed one Adderall tablet when he was nineteen years old. Lt. Alejandro McDaniel, Salt River Pima-Maricopa Indian Community Police Department, addressed the Board to request that the petition be granted.

Chief Rodbell made a motion that based upon the information submitted by the Salt River Pima-Maricopa Indian Community Police Department, and pursuant to Rule 13-4-103(G), the Board grant the request for waiver for Applicant Jose Ramirez. The motion was seconded by Captain Bischoff and passed unanimously.

H. Review, Discussion and Possible Action on an AZ State University Police Department Petition that applicant’s number of uses of marijuana, over eight years ago, was for experimentation for Applicant Amanda Stevens

Assistant Attorney General Mark Brachtl addressed the Board regarding the AZ State University Police Department petition that Applicant Amanda Stevens’ number of uses of marijuana, over eight years ago, was for experimentation. Applicant Stevens admitted to consuming marijuana while in college and under 21 years of age; she is unsure about the exact number of times. Chief Michael Thompson, AZ State University Police Department, addressed the Board to request that the petition be granted.

Chief Rodbell made a motion that based upon the information submitted by the AZ State University Police Department, and pursuant to Rule 13-4-105(C), the Board grant the request for waiver for Applicant Amanda Stevens. The motion was seconded by Captain Bischoff and passed unanimously.

I. Review, Discussion and Possible Action on a Kingman Police Department Petition for a waiver pursuant to A.A.C. R13-4-103(G) for Applicant Grace Hinkle

Assistant Attorney General Mark Brachtl addressed the Board regarding the Kingman Police Department petition for a waiver pursuant to A.A.C. R13-4-103(G) for Applicant Grace Hinkle. Applicant Hinkle admitted to consuming one edible marijuana product when she was 17 years of age. Chief Rusty Cooper, Kingman Police Department, addressed the Board to request that the petition be granted.

Captain Bischoff made a motion that based upon the information submitted by the Kingman Police Department, and pursuant to Rule 13-4-103(G), the Board grant the request for waiver for Applicant Grace Hinkle. The motion was seconded by Chief Rodbell and passed unanimously.

J. Review, Discussion and Possible Action on an AZ Game and Fish Department Petition for a waiver pursuant to A.A.C. R13-4-103(G) for Applicant Ryan Staskey

Assistant Attorney General Mark Brachtl addressed the Board regarding the AZ Game and Fish Department petition for a waiver pursuant to A.A.C. R13-4-103(G) for Applicant Ryan Staskey. Applicant Staskey admitted to receiving a baggie of marijuana for his 18th birthday and then selling the baggie to a friend. Major Lainie Antolik, AZ Game and Fish Department, addressed the Board to request that the petition be granted.

Sheriff Dannels made a motion that based upon the information submitted by the AZ Game and Fish Department, and pursuant to Rule 13-4-103(G), the Board grant the request for waiver for Applicant Ryan Staskey. The motion was seconded by Captain Bischoff and passed with one nay vote recorded for Officer Medina.

K. Review, Discussion and Possible Action on a Tohono O’odham Nation Police Department Petition for a waiver pursuant to A.A.C. R13-4-105(C) for Applicant Aurelia Duarte

Assistant Attorney General Mark Brachtl addressed the Board regarding the Tohono O’odham Nation Police Department petition for a waiver pursuant to A.A.C. R13-4-105(C) for Applicant Aurelia Duarte. Applicant Duarte admitted to consuming two edible marijuana products almost four years ago. Chief Elton Begay, Tohono O’odham Nation Police Department, addressed the Board to request that the petition be granted.

Captain Bischoff made a motion that based upon the information submitted by the Tohono O’odham Nation Police Department, and pursuant to Rule 13-4-103(G), the Board grant the request for waiver for Applicant Aurelia Duarte. The motion was seconded by Sheriff Dannels and passed with one nay vote recorded for Officer Medina.

L. Review, Discussion and Possible Action on a Sedona Police Department Petition for a waiver pursuant to A.A.C. R13-4-103(G) for Officer Jesse Santos

This petition request was pulled from the agenda.

M. Final Action Cases:

1. 18-101 – Keanu C. Curley – Navajo Division of Public Safety

The Board considered comments from Assistant Attorney General Mark Brachtel; who provided a brief overview of the case and the Administrative Law Judge's Decision. Mr. Curley was not present.

Chief Rodbell made a motion to accept the Administrative Law Judge's Findings of Fact. The motion was seconded by Captain Bischoff and passed unanimously.

Chief Rodbell made a motion to accept the Administrative Law Judge's Conclusions of Law. The motion was seconded by Captain Bischoff and passed unanimously.

Chief Rodbell made a motion to revoke Mr. Curley's peace officer certification. The motion was seconded by Captain Bischoff and passed unanimously.

2. 19-231 – Clinton D. Swick – Phoenix Police Department

The Board considered comments from Assistant Attorney General Mark Brachtel; who provided a brief overview of the case and the terms of the proposed Consent Agreement and from Cassidy Bacon, attorney for Mr. Swick.

Sheriff Dannels made a motion to accept the proposed Consent Agreement, Decision and Order for a 1-year suspension of Mr. Swick's peace officer certification. The suspension shall be in effect from October 25, 2019 through October 25, 2020. The motion was seconded by Captain Bischoff and passed unanimously.

Mr. LeFevre commented on his concerns regarding how the Board is going to deal with cases like this in the future, especially dealing with First Amendment Rights.

Assistant Attorney General Brachtel stated his interpretation of the law is that racially or sexually derogatory speech by police officers is generally not protected speech.

3. 19-182 – Andrew L. Bates – Gilbert Police Department

The Board considered comments from Assistant Attorney General Mark Brachtel, who provided a brief overview of the case and the terms of the proposed Consent Agreement.

Chief Rodbell made a motion to accept the proposed Consent Agreement, Decision and Order for a 14-month suspension of Mr. Bates' peace officer certification. The suspension shall be in effect from October 16, 2019 through December 16, 2020. The motion was seconded by Captain Bischoff and passed unanimously.

4. 19-092 – Michael A. Fairburn – Gila River Police Department
Chairman Mascher left the meeting due to a telephone call, Chief Rodbell was Acting Chair. The Board considered comments from Compliance Specialist Arlene Heckel, who provided a brief overview of the case. Sheriff Dannels made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Fairburn's peace officer certification. The motion was seconded by Mr. LeFevre and passed unanimously.
5. 19-219 – Stephen D. Laconte Jr. – AZ Department of Public Safety
Deputy Director Hunter recused himself from this case. Chairman Mascher returned as Chair. The Board considered comments from Compliance Specialist Steve Jacobs, who provided a brief overview of the case. Captain Bischoff made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Laconte's peace officer certification. The motion was seconded by Sheriff Dannels and passed unanimously.
6. 19-201 – Jason L. Ryan – Tucson Airport Authority Police Department
The Board considered comments from Compliance Specialist Steve Jacobs, who provided a brief overview of the case. Captain Bischoff made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Ryan's peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.

N. New Charging Cases:

1. 20-069 – Nathan J. Holliday – Pinetop-Lakeside Police Department
The Board considered comments from Compliance Specialist Steve Jacobs, who provided a brief overview of the case. Chief Rodbell made a motion to Initiate Proceedings against Mr. Holliday's peace officer certification. The motion was seconded by Captain Bischoff and passed unanimously.
2. 20-004 – Kyle H. Cluff – Goodyear Police Department
The Board considered comments from Compliance Specialist David Toporek, who provided a brief overview of the case. Captain Bischoff made a motion to close this case with No Action with Agency Discretion. The motion was seconded by Chief Rodbell and passed unanimously.
3. 19-215 – Chad D. Cunningham – Yuma Police Department
The Board considered comments from Compliance Specialist David Toporek, who provided a brief overview of the case; a short video was also presented. Sheriff Dannels made a motion to Initiate Proceedings against Mr. Cunningham's peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.
4. 19-229 – Martin Espinoza – Yuma Police Department
The Board considered comments from Compliance Specialist David Toporek, who provided a brief overview of the case. Chief Rodbell made a motion to Initiate Proceedings against Mr. Espinoza's peace officer certification. The motion was seconded by Captain Bischoff and passed unanimously.

O. Future Agenda Items

The Use of Force pilot program will be added to a future agenda for discussion.

P. Adjournment

The meeting was adjourned at 12:00 p.m.